

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DAVID TRUJILLO,

Plaintiff,

v.

THANKS AGAIN, LLC, and
EDMNUND PUCKHABER,

Defendants.

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CIVIL ACTION NO.
1:11-CV-04520-AT

ORDER

The parties attended mediation on February 6, 2014 and notified the Court that a settlement of this matter had been reached on February 7, 2014. The Settlement Memorandum and Term Sheet executed by the parties at the mediation provides that Defendant Thanks Again LLC shall pay Plaintiff “a total of \$280,000 payable as \$30,000 down at closing, and monthly installments of \$5,000 per month for 50 months,” with the initial payment of \$30,000 due on February 28, 2014¹. Subsequently, disputes arose between the parties regarding the terms of the settlement documents. On February 26, 2014, the Court ordered Defendants to deposit settlement funds in the amount of \$30,000 into the registry of the Court pending a ruling on their Motion for Direction in Light of

¹ The Court notes that although the Settlement Memorandum and Term Sheet contains a provision whereby Plaintiff agrees to keep the terms of the agreement confidential, Defendants have filed copies of the Settlement Memorandum and Term Sheet on the record in conjunction with their Motion for Direction in Light of Issues Consummating the Settlement Negotiated During Court-Ordered Mediation [Doc. 104] and Motion to Enforce Settlement and for Sanctions [Doc. 107] without requesting the sealing of the terms of the agreement. Nonetheless, Plaintiff is advised of his continuing and independent duty to keep the terms of the agreement confidential.

Issues Consummating the Settlement Negotiated During Court-Ordered Mediation² [Doc. 104] and Motion to Enforce Settlement and for Sanctions [Doc. 107]. (See Order, Doc. 105.) The Court held a hearing on Defendants' motions on March 7, 2014 to facilitate a resolution of the dispute regarding the terms of the final settlement³ documents and to approve the settlement of Plaintiff's claims under the Fair Labor Standards Act, 29 U.S.C. § 216. At the conclusion of the hearing, Plaintiff and Defendants executed the promissory note outlining the payment schedule of the monthly installment payments owed by Defendant Thanks Again pursuant to the Settlement Memorandum and Term Sheet.

The Court has reviewed the proposed settlement agreement and considered counsel's assessment of the practical considerations that warrant settlement of this matter. The Court is also familiar with the strengths and weaknesses of the parties' respective positions based upon its summary judgment ruling in this matter. The settlement agreement enables the parties to avoid recognized litigation risks as well as damages payment risks associated with Defendants' financial capacity and resources. The provisions of the Agreement are thus fair, adequate, and reasonable. *See Lynn's Food Stores, Inc. v. United States*, 679 F.2d 1350, 1353 (11th Cir. 1982).

² The Court **GRANTS NUNC PRO TUNC** Defendants' Motion for Direction in Light of Issues Consummating the Settlement Negotiated During Court-Ordered Mediation [Doc. 104].

³ The parties waived their right to have the mediator arbitrate these disputes pursuant to the arbitration clause in ¶ 6 of the Settlement Memorandum and Term Sheet.


THEREFORE,

1. The Court **GRANTS IN PART** and **DENIES IN PART** Defendants' Motion to Enforce Settlement⁴ [Doc. 107] consistent with the terms of the agreement as discussed during the hearing on March 7, 2014.
2. The Court **APPROVES** the Settlement Agreement as a fair, reasonable, and adequate resolution of this action.
3. The Clerk is **AUTHORIZED** and **DIRECTED** to draw a check on the funds on deposit in the registry of this Court in the amount of \$191.25⁵ to THANKS AGAIN LLC and mail or deliver the check to THANKS AGAIN LLC at the following address: 1015 Tyrone Road, Suite 820, Tyrone, Georgia 30290.
4. The Clerk is **AUTHORIZED** and **DIRECTED** to draw a check on the funds on deposit in the registry of this Court for the remainder of the \$30,000 plus all accrued interest to DAVID TRUJILLO and mail or deliver the check to DAVID TRUJILLO at the following address: 65-1158 Mamalahoa Hwy #8A, PMB 114, Kamuela, HI 967743.
5. The Court **DISMISSES WITH PREJUDICE** any and all claims that were or could have been raised in this matter by Plaintiff David Trujillo.
6. The Court **DIRECTS** the Clerk to close the case.

⁴ The Court **DENIES** Defendants request for sanctions [Doc. 107].

⁵ This amount represents the tax and FICA withholding required by law on the \$2,500 payment allocated to Plaintiff's back wages under the FLSA.

SO ORDERED this 11th day of March, 2014.


Amy Totenberg
United States District Judge